



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/177,047	10/22/1998	KENNETH L. BRINKLEY		2616
7590	09/03/2004		EXAMINER	
FROST & JACOBS			JOHNSON, STEPHEN	
2500 PNC CENTER			ART UNIT	PAPER NUMBER
201 EAST FIFTH STREET				
CINCINNATI, OH 45202			3641	

DATE MAILED: 09/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/177,047	BRINKLEY, KENNETH L.	
	Examiner Stephen M. Johnson	Art Unit 3641	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 07 May 2002.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-29, 31-35 and 38-67 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-29, 31-35 and 38-67 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

Art Unit: 3641

1. The proposed drawing corrections filed on 4/19/2001 have been disapproved. In reissue cases, amendments to the original drawings are not permitted (see 37 CFR 1.121(b)(3)(I)).
2. The proposed additional fig. 5 filed on 4/19/2001 has been approved.
3. The proposed drawing corrections filed on 8/13/2001 (with regard to fig. 2) have been disapproved. In reissue cases, amendments to the original drawings are not permitted (see 37 CFR 1.121(b)(3)(I)).
4. The proposed additional fig. 5 filed on 8/13/2001 has been approved.
5. The drawings are objected to because numerical indicator 30 (col. 5, line 18) and numerical indicator 7 (col. 6, line 49) are not illustrated. Correction is required.
6. The disclosure is objected to because of the following informalities: On col. 6, line 48, numerical indicator 26 should be 28.

Appropriate correction is required.

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-2, 4-6, 9, 12-15, 18, 21, 28, 32-33, 38-39, 42-43, 45-47, 50, 53-56, 59, 62, and 67 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnson et al..

Johnson et al. disclose a device for counting pulses comprising:

a) an inertia sensor;	36, 38, or 50, 52, or 28
b) an electrical circuit;	12, 14, 32, 34
c) a signal indicative of number of pulses; and	10

d) a cylindrical housing. see fig. 3

9. Claims 28, 32-33, and 67 are rejected under 35 U.S.C. 102(b) as being anticipated by Horne et al. (307).

Horne et al. (307) disclose a device for counting pulses comprising:

a) an inertia sensor;	28, 28b, 32, 34
b) an electrical circuit;	50
c) a signal indicative of number of pulses; and	24
d) disregard signals in predetermined time.	col. 5, lines 44-62

10. Claims 1-29, 31-35, and 38-67 are rejected under 35 U.S.C. 251 as being an improper recapture of claimed subject matter because the claim language is directed to subject matter surrendered in the original application by changes made to the claims in an effort to overcome a prior art rejection and/or arguments made in an effort to overcome the prior art (see Clement 131 F.3d at 1469, 45 USPQ2d at 1164).

This in regard to the claim language added by amendment filed on 2/20/1996 as follows: "for attaching to a firearm, said firearm having a firing end and a grip end, and"; and "wherein said first means comprise an inertia switch comprising a movable mass; and wherein said mass is resiliently biased toward the firing end of the firearm".

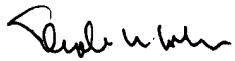
This is also in regard to the arguments filed on 2/20/1996 directed to "the movable mass is resiliently biased toward the firing end of the firearm".

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. Johnson whose telephone number is 703-306-4158. The examiner can normally be reached on Tuesday through Friday. If attempts to reach the

Art Unit: 3641

examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 703-306-4198. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-4177.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9326. The fax phone number for after final communications is (703) 872-9327.



STEPHEN M. JOHNSON  
PRIMARY EXAMINER

Stephen M. Johnson  
Primary Examiner  
Art Unit 3641

SMJ